

IC 3-6-5.1

Chapter 5.1. County Procedures for Resolving Administrative Complaints Concerning Uniform and Nondiscriminatory Election Technology and Administrative Requirements Under Title III of HAVA

IC 3-6-5.1-1

Application of chapter

Sec. 1. This chapter applies after December 31, 2003.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-2

"Title III"

Sec. 2. As used in this chapter, "Title III" refers to Title III of HAVA (42 U.S.C. 15481 through 15485).

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-3

County administrative complaint procedure established

Sec. 3. This chapter establishes a county based administrative complaint procedure to supplement the state based administrative complaint procedure under IC 3-6-4.5 to remedy grievances concerning uniform and nondiscriminatory election technology and administrative requirements under Title III. A person who files a complaint under this chapter retains the right to file a complaint with the election division under IC 3-6-4.5.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-4

Remedies supplement other remedies under IC 3

Sec. 4. The remedies provided under this chapter are supplemental to any other remedies provided to an aggrieved party under this title.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-5

Procedures uniform and nondiscriminatory

Sec. 5. The procedures prescribed by this chapter must be uniform and nondiscriminatory.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-6

Filing complaint with circuit court clerk

Sec. 6. A person who believes there is a violation of any provision of Title III, including a violation that has occurred, is occurring, or is about to occur, may file a complaint with the circuit court clerk of the county where the violation occurred, is occurring, or is about to occur.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-7

Form of complaint

Sec. 7. A complaint filed under this chapter must be written, signed, and sworn to before an individual authorized to administer an oath under IC 33-42-4.

As added by P.L.209-2003, SEC.17. Amended by P.L.98-2004, SEC.27.

IC 3-6-5.1-8**Information required in complaint**

Sec. 8. The complaint filed under section 6 of this chapter must state the following:

- (1) The name and mailing address of the person alleged to be committing the violation of Title III described in the complaint.
- (2) Whether the person filing the complaint has filed a complaint concerning the violation with the election division under IC 3-6-4.5.
- (3) The nature of the injury suffered (or about to be suffered) by the person filing the complaint.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-9**Complaint provided to county election board and persons named in complaint**

Sec. 9. The circuit court clerk shall promptly provide a copy of the complaint by first class mail to the members of the county election board and the persons identified in the complaint.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-10**Dismissal of complaint filed concurrently with election division**

Sec. 10. If the county election board is notified at any time that the person who filed a complaint under this chapter has filed a complaint with the election division under IC 3-6-4.5 regarding this matter, the county election board shall dismiss the proceeding under this chapter.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-11**Complaint against clerk filed with chair of county election board**

Sec. 11. This section applies if the complaint alleges that the circuit court clerk has committed the violation. The aggrieved person shall file the complaint with the chair of the county election board. The chair shall perform the duties otherwise performed by the circuit court clerk concerning a complaint.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-12**Consolidation of complaints**

Sec. 12. The county election board may consolidate complaints filed under this chapter.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-13

Preliminary determination of validity of complaint; dismissal; notice of dismissal

Sec. 13. The circuit court clerk shall determine whether a complaint filed under this chapter describes a violation of Title III if the facts set forth in the complaint are assumed to be true. The circuit court clerk may consult with the election division in making this determination. If the circuit court clerk determines that:

- (1) even if the facts set forth in the complaint are assumed to be true, there is no violation of Title III; or
- (2) that the person has not complied with section 7 of this chapter;

the circuit court clerk shall dismiss the complaint and publish notice of the order dismissing the matter in accordance with IC 5-3-1.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-14

Persons to whom notice of dismissal provided

Sec. 14. If the circuit court clerk dismisses a complaint under section 13 of this chapter, the circuit court clerk shall provide a copy of this determination by certified mail to:

- (1) the person who filed the notice;
- (2) the person alleged to have committed the violation;
- (3) the members of the county election board; and
- (4) the election division.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-15

Investigation of complaints determined valid

Sec. 15. If the circuit court clerk determines that the complaint alleges a violation of Title III if the facts alleged in the complaint are assumed to be true and that the person has complied with section 7 of this chapter, the circuit court clerk shall conduct an investigation under IC 3-6-5.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-16

Submission of investigation results to county election board; county election board report; persons provided copies of report

Sec. 16. The circuit court clerk, upon completing the investigation, shall submit the results of the investigation to the county election board, which shall then issue a written report. The circuit court clerk shall provide a copy of the report by certified mail to:

- (1) the person who filed the complaint;
- (2) the person alleged to have committed the violation;
- (3) the members of the county election board; and
- (4) the election division.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-17

Content of report

Sec. 17. The report described in section 16 of this chapter must:

- (1) indicate the date when the complaint alleging the violation was received by the county election board;
- (2) contain findings of fact regarding the alleged violation and state whether a violation of Title III has occurred or appeared to be likely to occur when the complaint was filed;
- (3) state what steps, if any, the person alleged to have committed the violation has taken to correct the violation or to prevent a reoccurrence of the violation;
- (4) suggest any additional measures that could be taken to correct a violation;
- (5) indicate the date when a violation was corrected or is expected to be corrected; and
- (6) provide any additional information or recommendations useful in resolving this complaint.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-18

Hearing; record

Sec. 18. At the request of the person filing a complaint, or at the request of a member of the county election board, the board shall conduct a hearing on the complaint and prepare a record of the hearing. This request must be filed not later than noon seven (7) days after the report was mailed under section 16 of this chapter.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-19

County election board action after hearing

Sec. 19. After concluding the hearing, the county election board shall:

- (1) affirm the report;
- (2) amend the report;
- (3) refer the matter to the circuit court clerk for further investigation and submission of a subsequent report to the county election board; or
- (4) refer the matter to the election division.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-20

Dismissal of complaint after determination of no violation

Sec. 20. If the county election board determines that based on the evidence presented, there is no violation of any provision of Title III or that the person has not complied with section 7 of this chapter, the county election board shall dismiss the complaint and publish notice of the order dismissing the matter in accordance with IC 5-3-1.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-21**County election board to provide remedy if authorized by law; dismissal of complaint if remedy not authorized**

Sec. 21. If the county election board determines that there is a violation of any provision of Title III, the county election board shall determine and provide the appropriate remedy if authorized by law to do so. If the county election board determines that it is not authorized by law to provide the appropriate remedy, the county election board shall dismiss the complaint.

As added by P.L.209-2003, SEC.17.

IC 3-6-5.1-22**Summary of county election board action; to whom provided**

Sec. 22. The county election board shall forward a written summary of any action taken by the commission under section 20 or 21 of this chapter by certified mail to:

- (1) the person who filed the complaint;
- (2) the person alleged to have committed the violation; and
- (3) the election division.

As added by P.L.209-2003, SEC.17.